

### **REMARKS**

Claims 1-19 are pending in the present application. Claims 1, 2, 4, 9, 10 and 12 have been amended and claim 17-19 have been added. Claims 1, 9 and 19 are independent. The specification has been amended. Reconsideration of this application, as amended, is respectfully requested.

#### **Objection to the Specification**

The specification stands objected to for a minor informality in the Abstract of the Disclosure. As the Examiner will note, the Abstract of the Disclosure has been amended in the manner suggested by the Examiner. Accordingly, the specification objection has been obviated.

#### **Rejections Under 35 U.S.C. §§ 102 and 103**

Claims 1, 4, 7, 9, 12 and 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Tsuchida et al., USPN 4,560,755. Claims 2, 3, 5, 6, 8, 10, 11, 13, 14 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tsuchida et al. in view of Toyoda, U.S. Application Publication No. 2003/0006577. These rejections are respectfully traversed.

The present invention is directed to a rear suspension. Independent claims 1 and 9 recite a combination of elements of the rear suspension including "a shock absorber, said shock absorber having a first end coupled between the rear swing arm and the body frame via a link and a second end coupled to the rear swing arm." Applicants respectfully submit that the

references relied on by the Examiner fail to teach or suggest the present invention as recited in independent claims 1 and 9.

In particular, referring to Tsuchida et al., this reference is directed to a rear suspension system for a motorcycle. Referring to FIGS. 4-6 of Tsuchida et al., a damper 32 has an upper end connected to a sub-frame 6 and a lower end connected to a rear fork by a first link 35. Since the damper 32 of Tsuchida et al. does not have first and second ends that are coupled to the rear swing arm, Applicants respectfully submit that the Tsuchida et al. reference fails to anticipate independent claims 1 and 9 of the present invention.

With regard to dependent claims 2-8 and 10-16, Applicants respectfully submit that these claims are allowable due to their respective dependence upon independent claims 1 and 9, as well as due to the additional recitations in these claims.

With specific regard to dependent claims 2, 3, 5, 6, 8, 10, 11, 13, 14 and 16, the Examiner relies on the Tsuchida et al. reference as modified by Toyoda. Applicants respectfully submit that the modification proposed by the Examiner would not have been obvious to one having ordinary skill in the art. In the Examiner's Office Action, the Examiner states:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the side mounted shock absorber assembly having the lower end of the shock absorber coupled to the rear swing arm by links and having a piston rod extending from a damper toward an end of a cushion spring as shown by the rear suspension of Tsuchida with a simple modification wherein the side mounted shock absorber is modified so that an upper end of the shock absorber is coupled to another part of the vehicle, such as the upper side of the swing arm 24 with the lower end still being coupled to the swing arm and the body frame via links as suggested by Toyoda to enhance the rear suspension and swing arm assembly while restraining weight of the vehicle as suggested by Toyoda (column 1-2) and simple dependent upon a matter of obvious design choice, since it is held that the mere

reversal of central working parts of a device and/or rearranging parts of an invention involves only routine skill in the art. In re Einstein, 8 USPQ 167 and In re Japikse, 86 USPQ 70.

First, Applicants submit that the Examiner is not considering the Tsuchida et al. and Toyoda references as a whole. Tsuchida et al. specifically describes a rear suspension having a rear wheel supporting member and a damper with a progressive link mechanism that is disposed above the rear wheel supporting member. With this arrangement, auxiliary devices such as muffler and a stand can be located substantially below the rear wheel supporting member (please see column 2, lines 5-28 of Tsuchida et al.). In view of this, the modification proposed by the Examiner would be contrary to the teachings of Tsuchida et al. Specifically, the modification proposed by the Examiner would require that the lower end of the damper 32 of Tsuchida et al. be connected to the rear wheel supporting member at a location below the rear wheel supporting member. Since such a arrangement would be contrary to the teachings of Tsuchida et al., Applicants submit that the modification proposed by the Examiner would not have been obvious to one having ordinary skill in the art.

Second, Applicants submit that the Examiner has taken the teachings of Toyoda out of context. Referring to FIG. 10 of Toyoda, the object of Toyoda is to provide an advancement over the prior art by connecting an upper end of the shock absorber to the swing arm 24 instead of to the body frame 300 as illustrated in FIG. 10. In view of this, Toyoda merely provides a suggestion to one having ordinary skill in the art to attach an upper end of a shock absorber to a swing arm. However, referring to FIG. 6 of Tsuchida et al., such a teaching would not arrive at the present invention, since the lower end of the damper 32 of Tsuchida et al. is connected to an

upper portion of the rear fork 10. Applicants submit that there is no teaching in Toyoda to both attach an upper end of a shock absorber to a swing arm and a lower end of a shock absorber to a lower portion of a swing arm in order to attain the advantages mentioned by the Examiner and described at column 1-2 of Toyoda. In view of this, the Examiner's modification of Tsuchida et al. is non-obvious for this additional reason.

With specific regard to dependent claims 5 and 13 of the present invention, Applicants respectfully submit that the Examiner's rejection in view of the Tsuchida et al. and Toyoda references is clearly incorrect. As the Examiner will note, dependent claims 4 and 12 require a substantially triangular first link. In addition, dependent claims 5 and 13 (which depend from claims 4 and 12, respectively) require that a first end of the substantially triangular first link be connected to a stay attached to the body frame. Referring to Tsuchida et al., neither of the first and second links 35 and 38 are triangular. In addition, the second link 38 is clearly not triangular and the second link 38 is the link that is connected to a stay attached to the body frame. In view of this, Tsuchida et al. fails to disclose this aspect of the present invention.

Referring to Toyoda, the first link 32, which the Examiner appears to be considering the triangular first link of the present invention, is not connected to a stay attached to the body frame. It is the second link 34 that is attached to the body frame and therefore the Toyoda reference also fails to disclose this aspect of the present invention.

In view of the above amendments and remarks, Applicants respectfully submit that claims 1-16 clearly define the present invention over the references relied on by the Examiner. Accordingly, reconsideration and withdrawal of the Examiner's rejections under 35 U.S.C. §§

102 and 103 are respectfully requested.  
Birch, Stewart, Kolasch & Birch, LLP

### **Additional Claims**

Additional claims 17-19 have been added for the Examiner's consideration. Applicants respectfully submit that claims 17 and 18 are allowable due to their respective dependence upon allowable independent claims 1 and 9, as well as due to the additional recitations in these claims.

With regard to additional independent claim 19, as the Examiner will note, this claim is directed to the subject matter of original independent claim 9 and original dependent claims 12 and 13. In view of this, a claim having the scope of independent claim 19 has been presented since the filing of the present application. As mentioned above with regard to dependent claims 5 and 13, Applicants respectfully submit that neither of the Tsuchida et al. and Toyoda references discloses a first link that is both substantially triangular and connected to a stay attached to a body frame as recited in independent claim 19. In view of this, Applicants believe that claim 19 is in condition for allowance.

Favorable consideration and allowance of additional claims 17-19 are respectfully requested.

### **CONCLUSION**

Since the remaining references cited by the Examiner have not been utilized to reject the claims, but merely to show the state-of-the-art, no further comments are deemed necessary with respect thereto.

All the stated grounds of rejection have been properly traversed and/or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently pending rejections and that they be withdrawn.

It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

In the event there are any matters remaining in this application, the Examiner is invited to contact Paul C. Lewis, Registration No. 43,368 at (703) 205-8000 in the Washington, D.C. area.

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Respectfully submitted,

By 

Paul C. Lewis

Registration No.: 43,368

RCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant

Attachments